



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** The Scotsman Group, Inc.

**File:** B-245634

**Date:** January 13, 1992

William D. Blakely, Esq., and James S. Ganther, Esq., Piper & Marbury, for the protester.  
Lynn J. Bush, Esq., and Paul M. Fisher, Esq., Department of the Navy, for the agency.  
Mary G. Curcio, Esq., and Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Where named bidder and principal named in the bid bond are different, contracting officer properly rejected bid as nonresponsive due to the uncertainty of the actual bidder and was not required to investigate further whether the named entities were the same legal entity since bidder has primary responsibility for unambiguously identifying itself and there was insufficient evidence in the bid documents or in information submitted after bid opening and before award to demonstrate that the named entities were the same legal entity.

### DECISION

The Scotsman Group, Inc. protests the rejection of its bid as nonresponsive and the subsequent award of a contract to Southwood Building Systems, Inc. under invitation for bids (IFB) No. N62477-89-B-0003, issued by the Department of the Navy for the construction of a child development center.

We deny the protest.

The protester submitted the apparent low bid, identifying itself as "Scotsman Buildings DBA/Williams Mobile Offices"; however, the bid bond accompanying the bid named the principal as "The Scotsman Group, Inc." As a result, the contracting officer rejected the protester's bid as nonresponsive because the principal named on the bid bond differed from the bidder named on the bid form.

The protester challenges the agency's determination that its bid was nonresponsive, asserting that the name used in the bid documents (Scotsman Buildings DBA/Williams Mobile

Offices) and the name used in the bid bond (The Scotsman Group, Inc.) identify the same entity. The protester alleges that the names used in the bid documents are merely trade names of The Scotsman Group, Inc. In this regard, the protester states that the Data Universal Numbering System (DUNS) number, the Employer Identification Number (EIN) and the Cage Code supplied in the bid identify the bidder as The Scotsman Group, Inc.<sup>1</sup> Scotsman also asserts that at the time of bid opening, the contracting officer had additional information which demonstrated that the bid documents and the bid bond identified the same entity. Specifically, Scotsman notes that the bid form and the bid bond are both signed by the same person, in the capacity of treasurer and that the address of the companies in both documents is the same. In addition, Scotsman notes that the bid form listed The Scotsman Group as the party to whom any remittance should be sent.

After bid opening, the protester also submitted additional information to the contracting officer to demonstrate that the principal named in the bid bond is the same entity identified in the bid. Scotsman submitted a letter from a law firm stating that The Scotsman Group, Inc. had changed its name from Williams Mobile Offices, Inc. to The Scotsman Group, Inc., a document from the Maryland Department of Assessments and Taxation, dated January 17, 1990, attesting to the name change pursuant to the Articles of Merger between Williams Mobile Offices, Inc. and Scotsman Manufacturing Co., Inc., a copy of the Articles of Merger between Williams Mobile Offices, Inc., and a copy of a partially executed novation agreement between the Scotsman Group, Inc., a California corporation, and The Scotsman Group, Inc., a Maryland corporation. The protester also notes that "Scotsman Buildings Div." is listed on the Dun and Bradstreet report the Navy received concerning The Scotsman Group.

Generally, a bid bond which names a principal different from the nominal bidder is deficient and that defect may not be waived as a minor informality. The bid must be rejected unless it can be established that the different names

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<sup>1</sup>The DUNS number is the number which Dun and Bradstreet assigns companies and under which Dun and Bradstreet keeps the companies' financial information. The EIN is a number which is assigned by the Internal Revenue Service to a business entity for purposes of tax identification on the firm's tax return. A Cage Code is a code given to contractors so that payment can be executed and to track ownership of technical data.

identify the same entity. This is based on the rule of suretyship that no one incurs a liability to pay the debts of another unless he expressly agrees to be bound. See C.W.C. Assocs., Inc. and Chianelli Contracting Co., 68 Comp. Gen. 164 (1988), 88-2 CPD ¶ 612. Information demonstrating that the named bidder and the principal named on the bid bond identify the same entity can be submitted after bid opening if the information was publicly available at the time of bid opening. See Jack B. Imperiale Fence Co., Inc., B-203261, Oct. 26, 1981, 81-2 CPD ¶ 339; K-W Constr., Inc., B-194480, June 29, 1979, 79-1 CPD ¶ 475.<sup>2</sup>

Here, we find that there is nothing in the bid submission to show that Scotsman Buildings DBA/Williams Mobile Offices and The Scotsman Group, Inc. are the same entity. While the information in the bid that Scotsman advances in support of its protest, such as the same addresses and the same treasurer, might demonstrate that they are related firms, it does not demonstrate that the firms are the same legal entity. See generally Tower Elevator Corp., B-192064, Sept. 11, 1978, 78-2 CPD ¶ 188. Concerning the Cage Code, the EIN and the DUNS number, as we have previously stated, a contracting officer is not required to conduct an investigation to determine whether the different named entities, that is, the party submitting the bid and the principal named on the bid bond, are in fact the same. Nor is the contracting officer obligated to interpret an ambiguous bid by sequential logical deductions and inferences to make a bid responsive. Rather, the bidder bears the primary responsibility for properly preparing its bid documents in such a fashion that the contracting officer may accept the bid with full confidence that an enforceable contract conforming to all the requirements of the IFB will result. See Outdoor Venture Corp., B-235056, June 16, 1989, 89-1 CPD ¶ 571.

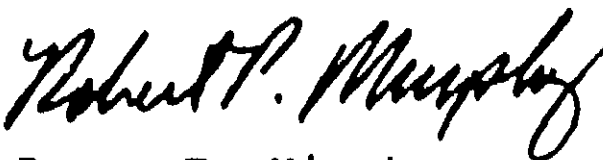
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<sup>2</sup>In Sigma Gen. Corp., B-236870, Dec. 14, 1989, 89-2 CPD ¶ 553, recon. den., B-236870.2, Feb. 23, 1990, 90-1 CPD ¶ 210, we did not intend to change the rule that information demonstrating that the named bidder and the principal named on the bid bond could be submitted after bid opening if it was in fact publicly available at the time of bid opening. In Sigma, the information was submitted after contract award to our Office as part of the protest. Our decision was only intended to establish that the information could not be submitted after the contract award and that the contracting officer had no duty to investigate and uncover such information, since it was the bidder's primary responsibility to submit all relevant information with the bid or run the risk of having its bid rejected.

Further, while the information Scotsman submitted after bid opening to demonstrate that The Scotsman Group, Inc. and Scotsman Building DBA/Williams Mobile Offices does show that The Scotsman Group, Inc. resulted from a merger of Scotsman Manufacturing Co., Inc. and Williams Mobile Offices, Inc., thus establishing a nexus between The Scotsman Group, Inc. and Williams Mobile Offices, it does not establish that Scotsman Buildings DBA/Williams Mobile Office and The Scotsman Group, Inc. identify the same legal entity. In fact, the documents do not even mention Scotsman Buildings. Finally, while the Dun and Bradstreet report lists Scotsman Buildings Div., again, this does not demonstrate that Scotsman Buildings DBA/Williams Mobile Office and The Scotsman Group, Inc. identify the same legal entity.

Under these circumstances, we find no basis to object to the contracting officer's determination to reject Scotsman's bid.

The protest is denied.

  
for James F. Hinchman  
General Counsel